

**J. Mason Family, LLC and  
F.W.Mason Family, LLC  
c/o Land Design and Development  
Petitioners**

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**BEFORE THE  
PLANNING BOARD OF  
HOWARD COUNTY, MD**

**PLANNING BOARD CASE NO. 399**

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**DECISION AND ORDER**

On June 6, 2013, the Planning Board of Howard County, Maryland, in accordance with Section 127.E.3 of the Howard County Zoning Regulations, held a public hearing to consider the petition of J. Mason Family, LLC and F.W. Mason Family, LLC, c/o Land Design and Development, for approval of a Preliminary Equivalent Sketch Plan, SP-13-004, for the subdivision of the subject site into 93 single family detached residential lots and 17 open space lots on 46.487 acres of land zoned R-20 (Residential-Single) but being processed for Planning Board approval utilizing Section 107.E of the R-ED (Residential-Environmental Development) Zoning Regulations. The plan proposes the following land use acreages: 16.666 acres of residential land use, 23.503 acres of open space land use and 6.3 acres of public road right-of-way. The subject site is bounding on the west side of Old Annapolis Road, north of Oak Hill Drive, located on Tax Map No. 30, identified as Parcel No. 86 and situated in the Second Election District of Howard County.

The Notice of Hearing was published and the subject property was posted in accordance with the Planning Board's requirements, as evidenced by certificates of publication and posting, all of which were made a part of the record of the case.

Pursuant to the Planning Board's Rules of Procedure, the reports and official documents pertaining to the petition, including the Technical Staff Report of the Department of Planning and Zoning, the Howard County Subdivision and Land Development Regulations, the Zoning Regulations, The Howard County Code and the Adequate Public Facilities Ordinance were made part of the record.

## **PLANNING BOARD HEARING**

The Chairperson opened the public hearing at approximately 7:25 p.m. Brenda Barth presented the Technical Staff Report which recommended approval to the Preliminary Equivalent Sketch Plan, SP-13-004, subject to comments from reviewing agencies.

## **PETITIONER'S TESTIMONY**

Mr. Joseph Rutter of Land Design and Development represented the applicant and was sworn in as first witness. Mr. Rutter testified that all criteria by which the Planning Board shall approve the Preliminary Equivalent Sketch Plan had been met, all roads had passed the Adequate Public Roads Facility Test and that proper screening, landscaping and on-site forest conservation would be provided. The witness entered into record Petitioner's Exhibit No. 1, a colored copy of the proposed development plan showing lots, roads, open space and proposed forest conservation easement areas.

Mr. Rutter reviewed Exhibit No. 1 and pointed out that the light green areas represented open space which was 50% of the total site as required by the regulations. The darker green areas represented forest which would be placed into easement areas, thereby, fulfilling forest conservation obligations on site. In reviewing the exhibit, Mr. Rutter indicated that in developing the site per the R-ED Zoning Regulations, more of the environmental features would be protected and larger areas of open space would be provided than that as required under R-20 Regulations. The developer has also coordinated a pathway system with the Department of Recreation and Parks and will be paving the pathways to connect to the existing system located on the park property. Mr. Rutter next spoke about the historic home known as Squirrel Hill located on the site and noted that minimum grading would occur on the historic home lot to preserve existing specimen trees. The house would be upgraded by continuing the front porch to wrap around the house to the rear for aesthetic reasons. This would allow the house to

appear as fronting on the public road. The Historic District Commission had reviewed the plan and supported the upgrades. Mr. Rutter continued testimony regarding the regulation to have a 75 foot setback from adjoining residential property and that this requirement was met, except where lots backed up to Centennial Park and was not required. Mr. Rutter spoke about placement of storm water management facilities on the site and pointed out that location was driven by topography and the desire to not have a facility situated on every front yard. Finally, Mr. Rutter spoke about the installation of a macadam pathway along the southern frontage of Old Annapolis Road rather than installation of a sidewalk at this location due to the location of a specimen tree to be saved. Questions were then directed from the Board to Mr. Rutter.

Paul Yelder questioned the historic status of the existing house known as Squirrel Hill. Mr. Rutter answered that the house was old and in disrepair and had some additions to the rear which did not match the overall historic design, but that the developer would be sensitive to the historic classification.

Mr. David Grabowski, Board Chairperson, thanked Mr. Rutter for his testimony and indicated that several people had signed-in to give opposing testimony.

### **OPPOSING TESTIMONY**

Mr. Thomas Moser was sworn in and spoke about the serious harm he felt the plan would have to Centennial Park. He was opposed to how close some houses would be to existing pathways within the Park and gave examples of subdivisions which he felt were overly developed. Mr. Moser encouraged the Board to improve the plan and to stop any blight upon Centennial Park. Mr. Grabowski indicated that the Department of Recreation and Parks were part of the Subdivision Review Committee and had an opportunity to review the plan, but had no opposing comments.

Mr. William Murphy was sworn in. Mr. Murphy spoke about his belief that the development was ill-conceived and that traffic impacts were not considered. He indicated problems getting in and out of his development from Briarcliffe Lane onto Old Annapolis Road and felt 93 additional homes would have a major adverse affect to surrounding residents. In addition, the sewage station was overloaded several times and posed a hazardous condition. Mr. Rutter addressed these concerns by stating that any sight distance problems would be handled through the construction of an acceleration lane across the property frontage and that all vegetation would be cleared thereby significantly improving sight distance. The proposed entranceway across from Briarcliffe Lane was a natural location and the second entranceway was necessary to lessen impacts to the environmental features.

Mr. Michael Zimring was sworn in. Mr. Zimring testified that he had seen several severe traffic accidents on Old Annapolis Road. The addition of 93 homes would overload Old Annapolis Road which was presently backed up with traffic during rush hours. He questioned whether traffic studies had been conducted.

Ms. Rebecca Pachura was sworn in. Ms. Pachura testified that she has lived in the area for five years and that traffic was a horrendous problem. At times she was unable to cross the road to get to the mailbox due to traffic and that she was concerned for the safety of children. She would like the County to consider traffic calming devices and additional stop signs on the affected roadways. Ms. Pachura also testified that some developments had had serious drops in water pressure and was wondering what the developer proposed for these kinds of problems. Mr. Grabowski replied that these problems would be considered during the continuous progression of the subdivision process for this development. Traffic studies would address the Adequate Public Facilities Ordinance and new criteria could be considered.

Ms. Penny Zimring was sworn in. Ms. Zimring testified that traffic was a significant concern and the quality of life for residents in the community should be considered. In addition she felt the school system would be affected and was wondering if Mason Property was in the same school district as Doughoregan Manor. Ms. Zimring asked the Board to consider a reduction in the number of residential units for the Mason Property which will affect traffic and the school system.

In closing, Mr. Rutter addressed the Board, indicating he understood the concerns of the opposing witnesses. However, he asked the Board to focus on the criteria for approving this subdivision and emphasized that this project had passed the Adequate Public Facilities Ordinance. Paul Yelder questioned Marsha McLaughlin, Executive Secretary of the Board, about the 75 foot Stream Bank Buffer and permitted disturbance. Ms. McLaughlin replied that no disturbance or structures were permitted in the buffer which was mainly established to protect the stream from any run-off from grading. A motion was made by David Grabowski to begin the Work Session. Paul Yelder seconded the motion and the hearing was closed at 7:56 p.m.

The Board continued to deliberate and vote on the case in open session. The Planning Board members in attendance motioned for a vote in this case.

After careful evaluation of all testimony and information presented, the Planning Board made the following Findings of Fact and Conclusions of Law:

#### **FINDINGS OF FACT**

1. The proposed Preliminary Equivalent Sketch Plan, SP-13-004, is for the subdivision of 93 building lots and 17 open space lots.

2. This project is subject to compliance with the Howard County Subdivision and Land Development Regulations including the Forest Conservation Regulations, the Landscape Manual, the Zoning Regulations and Maps, the Design Manual and the Adequate Public Facilities Ordinance.
3. The area of the proposed subdivision plan is 46.487 acres of land with 50% placed into credited open space areas of 23.503 acres.
4. The development will effectively protect, preserve and minimize disturbance of the environmental resources on the subject property. The plan proposes open space acreage that meets the requirement. Open Space will contain the areas of flood plain, steep slopes, wetlands, streams, the buffers and existing forest. The environmental resources will be preserved and protected within open space lots that will be dedicated to the Howard County Department of Recreation and Parks and/or the Homeowner's Association. The development plan does not propose disturbance within environmentally sensitive areas except for installation of public water, sewer and/or utilities and construction of the proposed public road right-of-way and as considered essential disturbance in accordance with Section 16.116(c) of the Subdivision and Land Development Regulations.
5. The total area of disturbance including the public road rights-of-way, utilities, house pad sites and storm water management facilities will involve approximately 33.6 acres or 72 % of the site. No disturbance of steep slopes outside of the essential disturbance will occur.
6. The subdivision plan accomplishes protection of environmental resources by the following means:
  - a. The historic structure identified as Squirrel Hill will be placed on an oversized lot and will adjoin open space. Minimum disturbance will occur on this lot and a specimen tree will be saved;
  - b. The clustering of residential lots away from the environmental features will further serve to protect these features and existing forest;

- c. The creation of lots at the minimum of 6,000 square feet will serve to provide adequate open space areas;
  - d. Maximizing the amount of environmental open space by establishment of 50% open space on site will meet the minimum requirement. The project will provide a substantial environmental buffer from residential lots.
- 7. Site plan design takes advantage of the uniqueness of the existing topography, environmental features and historic resources by minimizing the limits of clearing to construct the homes, storm water management, public roads and utility easements.
  - 8. Setbacks, landscape buffers or other methods are proposed to buffer the development from existing adjacent residential dwellings, roads and County Park Land. Compliance with the required 75 foot setback and preservation of existing trees along the subdivision perimeter will enhance landscaping along the north, south and western property boundaries.
  - 9. Sensitive environmental areas will be permanently protected either by dedication on open space, placement into forest conservation easement or placement into 100 Year Flood Plain Easement. The wetlands, stream, environmental buffers, flood plain and steep slopes will be protected by placement on an open space lot dedicated to Howard County and existing forest will be placed into forest conservation easements.
  - 10. The proposed development will be served by public water and sewer.
  - 11. In accordance with Sections 108.F and 128.L of the Zoning Regulations, a parcel of 11 acres or greater in size in the "R-20" Zoning District may be developed as a receiving parcel for additional density in association with Density Exchange for a Neighborhood Preservation Easement sending parcel at a

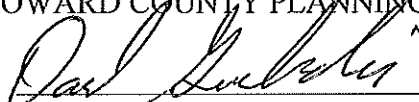
bonus of up to 10% more dwelling units than would be achievable based on net density using the "RED" Zoning Regulations. This subdivision is proposed to receive 8 density exchange units and will be recorded under the final plan submission for this project. This subdivision proposal complies with the Zoning Requirements for use of the "R-ED" Zoning Regulations and to receive Neighborhood Preservation Density Exchange units.

### **CONCLUSIONS OF LAW**

The proposed Preliminary Equivalent Sketch Plan, SP-13-004, satisfies all of the standards for approval of a Sketch Plan provided in Sections 107.E.6 and 108.F.3 of the Zoning Regulations for the reasons stated in the Department of Planning and Zoning Technical Staff Report.


For the foregoing reasons, the petition of Land Design and Development for approval of a Preliminary Equivalent Sketch Plan for 93 building lots and 17 open space lots located on 46.487 acres of land zoned R-20 and developed pursuant to the "R-ED" Zoning Regulations, is this 27 day of June, 2013, **APPROVED** by the Planning Board of Howard County.

HOWARD COUNTY PLANNING BOARD

  
David Grabowski, Chairperson

Absent

Bill Santos

  
Jacqueline Easley

Abstain

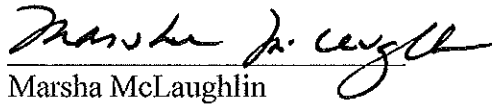
Josh Tzucker

  
Paul Yelder, Vice Chair



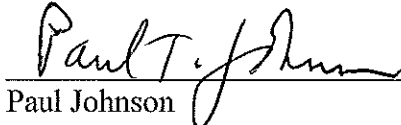
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ATTEST:



Marsha McLaughlin  
Executive Secretary

REVIEWED FOR LEGAL SUFFICIENCY BY  
HOWARD COUNTY OFFICE OF LAW:



Paul Johnson  
County Solicitor

**LIST OF APPLICANT'S EXHIBITS**

Exhibit No. 1, Color Copy of Preliminary Equivalent Sketch Plan

**LIST OF PROTESTANT'S EXHIBITS:**

None were introduced